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12 Attorneys for Plaintiff

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION

16 UNITED STATES OF AMERICA,) No. CR-12-00235 YGR
17 Plaintiff,) STIPULATION AND [PROPOSED]
18 v.) PROTECTIVE ORDER RE:
19 KHUSAR MOBLEY,) RECORDINGS
20 OTIS MOBLEY, and) OAKLAND VENUE
21 DMARCE HUTCHERSON,)
22 Defendants.)
23 _____

24 With the agreement of the parties, and with the consent of defendants, the Court enters
25 the following Order:

26 Defendants are charged with: (1) Conspiracy to Commit Robbery of Mail, Money, or
27 Other Property of United States and Assault on a Federal Officer, in violation of Title 18, United
28 States Code, Section 371; (2) Assault on a Federal Officer, in violation of Title 18, United States
Code, Section 111(b); (3) Robbery of Mail, Money, or Other Property of the United States, in
violation of Title 18, United States Code, Section 2114; and (4) Using, Carrying, Possessing, and
Brandishing a Firearm During, in Relation to, and in Furtherance of a Crime of Violence, in

1 violation of Title 18, United States Code, Section 924(c)(1)(A). Pursuant to defendants'
2 requests, the United States will produce copies of audio and video recordings regarding the
3 alleged incident at issue (hereinafter "RECORDINGS") to defense counsel, in lieu of making
4 them available for review only, pursuant to the following restrictions:

5 1. Except when being actively examined for the purpose of the preparation of the
6 defense of defendant, the RECORDINGS shall be maintained in a safe and secure place in
7 defense counsel's office, which is accessible only to defense counsel, members of his or her law
8 firm who are working with him or her to prepare defendant's defense, and his or her
9 investigator(s). Defense counsel, members of his or her law firm, defendant, and the
10 investigator(s) shall not permit any person access of any kind to the RECORDINGS except as set
11 forth below.

12 2. The following individuals may examine the RECORDINGS for the sole purpose
13 of preparing the defense of defendant and for no other purpose:

- 14 a) Counsel for defendant;
- 15 b) Members of defense counsel's law office who are assisting with the
16 preparation of defendant's defense;
- 17 c) Defendant, but only in the presence of defense counsel or another
18 authorized person listed in this paragraph, (defendant may not take or
19 maintain the RECORDINGS or copies thereof);
- 20 d) Investigators and experts retained by defendant to assist in the defense of
21 this matter.

22 If defense counsel determines that additional persons are needed to review the RECORDINGS,
23 he or she must obtain a further order of the Court before allowing any other individual to review
24 the materials.

25 3. A copy of this Order shall be maintained with the RECORDINGS at all times.

26 4. All individuals, other than defense counsel (and employees of his/her office) and
27 defendant, who receive access to the RECORDINGS, prior to receiving access to the materials,
28 shall sign a copy of this Order acknowledging that:

- 1 a) they have reviewed the Order;
- 2 b) they understand its contents;
- 3 c) they agree that they will only access the RECORDINGS and information
- 4 for the purposes of preparing a defense for defendant;
- 5 d) they understand that failure to abide by this Order may result in sanctions
- 6 by this Court.

7 Counsel for defendant shall either (1) send signed copies of the Order to counsel for the United
8 States or (2) file signed copies of the Order, *ex parte* and under seal. The United States shall
9 have no access to the signed copies filed under seal without further order of the Court.

10 5. No other person may be allowed to examine the RECORDINGS without further
11 order of the Court. Examination of the RECORDINGS shall be done in a secure environment
12 which will not expose the materials to other individuals not listed above.

13 6. The RECORDINGS may be duplicated to the extent necessary to prepare the
14 defense of this matter. Any duplicates will be treated as originals in accordance with this Order.

15 7. If the RECORDINGS are attached to any pleadings, the RECORDINGS shall be
16 filed or lodged under seal.

17 8. The United States shall request that the defense team return the RECORDINGS
18 (and any duplicate copies of the same) to the United States fourteen calendar days after any one
19 of the following events, whichever occurs latest in time: dismissal of all charges against
20 defendant; defendant's acquittal by court or jury; or the conclusion of any direct appeal. The
21 defense team shall comply with the United States' request.

22 9. After the conclusion of proceedings in the district court or any direct appeal in the
23 above-captioned case, the United States will maintain a copy of the RECORDINGS. The United
24 States will maintain the RECORDINGS until the time period for filing a motion pursuant to 28
25 U.S.C. § 2255 has expired. After the statutory time period for filing such a motion has expired,
26 the United States may destroy the RECORDINGS. In the event defendant is represented by
27 counsel and files a motion pursuant to 28 U.S.C. § 2255, the United States will provide that
28 counsel with a copy of the RECORDINGS under the same restrictions as trial and direct appeal

1 defense counsel. Defendant's attorney in any action under 28 U.S.C. § 2255 shall return the
2 same materials fourteen calendar days after the district court's ruling on the motion or fourteen
3 calendar days after the conclusion of any direct appeal of the district court's denial of the motion,
4 whichever is later.

5

6 STIPULATED:

7

8 DATED: April 24, 2012

9

/s/
RICHARD B. MAZER
Attorney for Defendant Khusar Mobley

10

11 DATED: April 24, 2012

12

/s/
SUZANNE M. MORRIS
Attorney for Defendant Otis Mobley

13

DATED: April 24, 2012

14

/s/
ANGELA HANSEN
Attorney for Defendant D'Marce
Hutcherson

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16 DATED: April 24, 2012

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MELINDA HAAG
United States Attorney

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19

/s/
JAMES C. MANN
Assistant United States Attorney

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IT IS SO ORDERED that disclosure of the above-described materials shall be restricted

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as set forth above.

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DATED: April ___, 2012

24

May 3, 2012

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HONORABLE YVONNE GONZALEZ ROGERS
United States Magistrate Judge
UNITED STATES DISTRICT JUDGE

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